

IN THE DRAWINGS:

Sheet 6 has been replaced so as to correct the error shown adjacent the step M6 where there were formerly two "C" branches and now correctly shown having one "C" branch and one "D" branch.

Former Fig. 16 on sheet 8 has been amended to be labeled Fig. 16a while former Fig. 16 on sheet 9 has been amended to be labeled Fig. 16b.

Entry is requested.

REMARKS

This amendment is in response to the Office Action of February 15, 2008 in which claims 33-57 were rejected.

Amendments

Claim 33 has been amended to recite simply “*transmitting said description*”. In other words, the wording, “*to a plurality of receiving stations*” has been cancelled. Basis for the amendment can be found, for example, in the description as originally filed on page 18, line 6 which describes “*the service delivery platform transmits the ESG*”.

New claim 58 has been added, dependent on claim 33, which recites “*transmitting said description to a plurality of receiving stations*”.

Claim 54 has been amended in a similar way.

Claims 33, 45, 50, 54, 55 and 56 have been amended by removing wording from the preamble thereof.

Claims 37, 45, 50, 52 and 56 have been amended by replacing the wording “*if*” with the wording “*in response to*”.

Claim 53 has been amended to recite a computer readable medium storing a computer program.

Claims 54, 55 and 56 have been amended to use “*configured to*” language.

Claim 57 has been amended to recite a computer-readable storage medium having stored thereon a data structure.

New claims 59 to 62 have been added (dependent on fundamental apparatus claim 54) along with new claims 63 to 66 (dependent on apparatus claim 56).

Claim Rejections – 35 USC § 103

The Examiner rejects claims 33 to 54 as being obvious over *Herz et al* (US 5,754,939) in view of *Hallford et al* (US 7,185,352).

Before addressing the Examiner's objections, Applicant considers that it might be helpful first to explain the background to the invention and its advantages and also to review *Herz*:

The present application describes a method of gathering information relating to consumption of broadcasted content by receiving stations.

In broadcasting, transmission of content is initiated by a service provider or network. Content is transmitted in broadcast cells according to a predefined schedule and users can opt either to receive or not to receive content.

It is desirable to generate ratings for programs for the purposes of billing users or charging advertisers. However, the methods of collecting charge information for using multicast services, e.g., using multicast joining and leaving messages, are not suited for use in broadcasting.

According to the present invention, there is provided a method comprising adding to a description of broadcast content an instruction to notify a given party of intended reception of said content or consumption of said content.

This can have the advantage that consumption of content may be recorded in real time. Furthermore, transmission of the broadcast content may be switched on and off in different regions according to whether end-users have shown interest in receiving the content, thereby freeing network resources. Of course, not all sessions need to be rated.

In contrast, *Herz* describes customizable electronic identification of desirable objects, such as news articles, in an electronic media environment (see abstract).

In *Herz*, a system automatically constructs both a "target profile" for each target object in the electronic media based, for example, on the frequency with which each word appears in an article, as well as a "target profile interest summary" for each user, which describes the user's interest level in various types of target objects. The system then evaluates the target profiles against the users' target profile interest summaries to generate a user-customized rank ordered listing of target objects most likely to be of interest to each user so that the user can select from among these potentially relevant target objects (see column 5, lines 6 to 20).

A computer program providing the articles to the user monitors how much the user reads (e.g., the number of screens of data and the number of minutes spent

reading), and adjusts the search profiles in the user's search profile set to more closely match what the use apparently prefers to read (see column 55, line 65 to column 56, line 3).

In other words, *Herz* describes a system for selecting articles from the Internet, for example, using a profile which is "learnt" by monitoring user behavior.

Clearly, *Herz* describes a completely different system and concerns a completely different problem to those of the present application.

Turning now to the Examiner's arguments:

The Examiner considers claim 33 to be obvious over *Herz* in view of *Hallford*.

However, Applicant disagrees because *Herz* does not disclose the features which the Examiner believes *Herz* to disclose, because there is no motivation to combine *Herz* and *Hallford* and also because, even if these references were combined, then the skilled person would still not arrive at the invention claimed in claim 33.

The Examiner considers that *Herz* teaches adding to a description of broadcast content an instruction to notify a given party of intended reception of said content or consumption of said content (column 17, lines 20 to 40).

However, Applicant considers that the Examiner is mistaken.

In fact, in the passage cited by the Examiner, *Herz* merely discloses:

"... The filtering system uses relevance feedback ... Such feedback is stored long-term in summarized form, as part of a database of user feedback information, and may be provided either actively or passively. In active feedback, the user explicitly indicates his or her interest.... In passive feedback, the system infers the user's interest from the user's behavior. ...which documents the user chooses to read, or not to read, and how much time the user spends reading them..."

This relevance feedback relates to a user's interest in documents and, thus, is not a description of broadcast content. Clearly, the feedback does not include any instructions, let alone an instruction to notify a given party of intended reception or consumption of broadcast content.

Even if the Examiner is using this passage as indirect evidence, then Applicant still considers that the Examiner is mistaken because *Herz* does not teach

or even suggest adding an instruction to notify a given party of intended reception or consumption of broadcast content, either in the passage cited by the Examiner or elsewhere in the reference.

For example, just because feedback has been provided, does not mean that an instruction as claimed in claim 33 has been sent.

Furthermore, *Herz* also discloses, in column 6, lines 18 to 29:

“The individual data that describes a target object and constitute the target object's profile are herein termed “attributes” of the target object. Attributes may include ... long pieces of text (a newspaper story, ...), (2) short pieces of text (name of a movie's director, ...), (3) numeric measurements (price of a product, ...), (4) associations with other types of objects (list of actors in a movie, ...)”

The target object's profile is merely a description of the object and, thus, does not include any instructions, let alone the instruction specified in claim 33.

Moreover, *Herz* discloses, in column 40, lines 44 to 57:

“If the response M2 contains or identifies a target object, the passive and/or active relevance feedback that the user provides on this object is tabulated by a process on the user's client processor C3. A summary of such relevance feedback information ... is periodically transmitted through a secure mix path to the proxy server S2, whereupon the search profile generation module 202 resident on server S2 updates the appropriate target profile interest summary associated with pseudonym P ...”

Herz does not teach that the response (which contains or identifies a target object) includes the instruction to notify. In fact, *Herz* teaches that feedback is automatically tabulated and automatically transmitted to a proxy server. Thus, there is no need to add an instruction to notify a given party of intended reception or consumption.

Thus, Applicant considers that *Herz* does not teach adding to a description of broadcast content an instruction to notify a given party of intended reception of said content or consumption of said content.

Therefore, Applicant considers that *Herz* does not disclose all of the features of claim 33 that the Examiner believes *Herz* to disclose.

Furthermore, in his reasoning, the Examiner considers that motivation to combine the references is due to the fact that each reference combines and gathers information provided in a broadcast stream from clients that receive the broadcast.

However, Applicant disagrees with the Examiner's reasoning.

Herz is primarily concerned with retrieving content from e.g. the internet (see column 2, lines 4 to 7), whereas *Hallford* is primarily concerned with television broadcasts (see column 1, lines 26 to 29).

In *Hallford*, the same metadata is broadcast to all clients (see column 8, lines 55 to 65 of *Hallford*, whereas, in *Herz*, only relevant information is presented to a selected user or group of users (see column 58, lines 25 to 32 of *Herz*). Thus, *Hallford* operates in a completely different way, and, in fact, in a contrary way, to *Herz*, in that it prepares a non-customized content listing as opposed to generating a customized list of relevant articles.

Therefore, the person of ordinary skill in the art would not consider modifying the system described in *Herz* by replacing the customised list of relevant articles with the non-customized content listing described in *Hallford* (see column 8, lines 1 to 25 of *Hallford*).

Nevertheless, even if it were assumed (which Applicant does not) that the person of ordinary skill in the art were to consider combining the references, then Applicant submits that they would still not arrive at the method claimed in claim 33.

This is because of the fact that *Hallford* also does not teach adding to a description of broadcast content an instruction to notify a given party of intended reception of said content or consumption of said content.

For example *Hallford* merely discloses, in column 8, lines 25 to 34:

"The service provider broadcasting system creates composite content metadata including metadata describing service provider content available from the service provider system and the broadcast service content to be broadcast by the broadcast service system."

In particular, *Hallford* discloses, in Figure 16 and in column 15, lines 8-13:

"Metadata 700 includes attributes and attribute values that describe each one of the movies to be broadcast later by server 103. In the example illustrated, two attributes are provided to

describe each movie in meta-data 700. The attributes shown in FIG. 16 are 'Actor' and 'Genre.'"

The metadata is merely a description of the movies and, thus, does not include any instructions, let alone an instruction to notify a given party of intended reception of broadcast content or consumption of the content.

Moreover, *Hallford* also discloses, in Figure 5 and in column 10, lines 25 to 31:

"At process block 417, the client then sends the ratings of the content data files to the server. In one embodiment, each client in the broadcast network sends the ratings for all of the content data files that are described by the composite content meta-data broadcast earlier from the server. Alternatively, each client sends all or part of the content rating table maintained on the client system."

Therefore, *Hallford* does not teach or even suggest that an instruction to notify has been added but, in fact, that ratings are automatically sent to the server and, thus, that such an instruction is not required.

Furthermore, Applicant would like to point out that the ratings described in *Hallford* are different from the notification of intended reception or consumption of broadcast content of claim 33. For example, in *Hallford*, the rating value may either be explicitly input by a user or implicitly generated by the client system by processing metadata and predicts that a particular data file may be of interest to a user (see column 16, lines 20 to 25). Alternatively, the system may rank data files based on box office returns, public opinion polls, movie awards (e.g., the Academy Awards), user requests or the like (see column 9, lines 27 to 30).

Therefore, it is clear that *Hallford* does not teach adding to a description of broadcast content an instruction to notify a given party of intended reception of said content or consumption of said content.

An advantage of the present invention is that information about consumption of data is only generated in respect of predetermined sessions, thereby minimizing network traffic (see page 17, lines 29 to 33 of the description as originally filed).

In summary, claim 33 is patentable over *Herz* in view of *Hallford*.

Furthermore, claims 45, 54, 56 and 57 are patentable for similar reasons and claims 34 to 44, 46 to 53, and 58 to 66 are patentable at least by way of dependency.

Claim Rejections – 35 USC §102

The Examiner rejects claims 55 to 57 as being anticipated by *Herz*.

Regarding claim 55, the Examiner considers that *Herz* teaches, for example, a receiver configured to receive, from a receiving station, a notification of intended reception of broadcast content (column 38, lines 35 to 68).

However, Applicant considers that the Examiner is mistaken.

In fact, in the passage cited by the Examiner, *Herz* merely discloses:

“... the request R to proxy server S2 ... may instruct proxy server S2 to ... retrieve from the most convenient server a particular piece of information ... to multicast to many servers a file ... to forward to the user all target objects that the news clipping service has sent ... to select a particular cluster from the hierarchical cluster tree and provide a menu of its subclusters ... to activate a query that temporarily affects proxy server S2's record of the user's target profile interest summary ... to forward to the user all messages that have been sent to the virtual community.”

However, the request for a particular piece of information, for example, described in *Herz* is completely different from the notification of intended reception of broadcast content claimed in claim 55. For example, *Herz* describes a pull technology in which a request for data originates from the user and then is responded to by the servers. In contrast, the present invention relates in part to a push technology in which content is broadcast to a plurality of receiving stations and notifications of intended reception are used for generating ratings.

Therefore, *Herz* does not disclose a receiver configured to receive a notification of intended reception of broadcast content.

Furthermore, the Examiner considers that *Herz* teaches, for example, a transmitter for instructing a network element to route content to a base station for transmission in a predetermined region (column 39, lines 11 to 60).

However, Applicant considers that the Examiner is mistaken.

In fact, the passage cited by the Examiner, *Herz* merely discloses:

“The proxy server S2 separates the received message M into the request message R, ... request message R includes an embedded message M1 and an address A to whom message M1 should be sent ... proxy server S2 sends message M1 to the server named in address A, such as server S4. ... server S4 transmits the response M2 to the proxy server S2 using normal network point-to-point connections. ...The proxy server S2, upon receipt of the response M2, creates a return message Mr ... transmits the return message Mr along the pseudonymous mix path specified by this return envelope set, so that the response M2 reaches the user at the user’s client processor C3.”

However, *Herz* does not disclose either a base station or transmission in a predetermined region.

For example, the proxy server described in *Herz* is completely different from the base station of the present invention. A proxy server is a computer system which services the requests of its clients by forwarding requests to other servers. In contrast, a base station is a fixed transmitter which serves a wireless cell by sending and receiving radio signals to and from mobile stations.

Therefore, *Herz* does not teach, for example, a transmitter configured to instruct a network element to route content to a base station for transmission in a predetermined region.

Therefore, *Herz* does not disclose all of the features of claim 55 that the Examiner believes *Herz* to disclose.

Therefore, claim 55 is not anticipated by *Herz*.

Regarding claim 56, the Examiner considers that *Herz* teaches, for example, a processor configured to determine whether an instruction has been added to a description of broadcast content, said instruction being to notify a given party of intended reception of said content or consumption of said content (column 39, lines 11 to 60).

However, Applicant disagrees.

In fact, in the passage cited by the Examiner, *Herz* merely discloses that a proxy server checks the signed version of a request message is valid (step 3), and, for example, sends an embedded message to another server (step 4), the other server transmits a response to the proxy server (step 5), and the proxy server transmits a

return message so that the response reaches the user at the user's client processor (step 6).

However, *Herz* does not teach or even suggest that the proxy server, the other server, or the client processor is configured to determine whether an instruction to notify about intended reception has been added to any messages.

Clearly, in *Herz*, it is only the user who can actually choose, for example, to read articles. Therefore, if it were assumed (which Applicant does not) that an entity can be configured to determine whether an instruction to notify about intended reception has been added, then only the user's client processor is in a position to be configured in this way. However, as explained earlier, the user's client processor automatically tabulates and automatically transmits feedback (see column 40, lines 44 to 57). Thus, the user's client processor is not configured to determine whether an instruction to notify has been added to any messages.

Therefore, *Herz* does not teach a processor configured to determine whether an instruction has been added to a description of broadcast content.

Therefore, claim 56 is not anticipated by *Herz*.

Regarding claim 57, the Examiner considers that *Herz* teaches, for example, a schedule data for broadcasting content, the schedule data being organized to include at least partly an instruction to notify a given party of consumption of content (column 28, line 48 to column 29, line 40).

However, Applicant considers that the Examiner is mistaken.

In fact, in the passage cited by the Examiner, *Herz* merely discloses:

"the overall architecture of an electronic media system, known in the art, in which the system for customized electronic identification of desirable objects of the present invention can be used to provide user customized access to target objects that are available via the electronic media system. ... The user can, by use of the user information access software, interact with the information servers to request and obtain access to data that resides on mass storage systems that are part of the information server apparatus. ... Target objects stored electronically as text files can include commercially provided news articles, published documents, letters, user-generated documents, descriptions of physical objects, or combinations of these classes of data. ..."

The target objects described in *Herz* are different from the broadcast content specified in claim 57. For example, the target objects are not broadcast at scheduled times. Therefore, *Herz* does not disclose “schedule data” for broadcasting content.

Furthermore, as explained earlier, *Herz* also does not teach or even suggest including any instructions, let alone an instruction to notify a given party of consumption of broadcast content.

Therefore, *Herz* does not teach “schedule data” for broadcasting content, the schedule data being organized to include at least partly an instruction to notify a given party of consumption of content.

Therefore, claim 57 is not anticipated by *Herz*.

In summary, it is clear that claims 55 to 57 are not anticipated by *Herz*.

Furthermore, Applicant considers claims 55 to 57 to be patentable over *Herz* in view of *Hallford*.

As explained earlier, the person of ordinary skill in the art would not consider combining the references, and, even if he were to do so, he would still not arrive at the apparatus claimed in claim 55, 56 or 57 because the references, either alone or in combination, do not teach all of the features of claim 55, 56 or 57.

Therefore, claims 55 to 57 are patentable over *Herz* in view of *Hallford*.

Claim Rejections – 35 USC §101

The Examiner has rejected claim 53 as being directed to non-statutory subject matter.

Claim 53 is amended to be directed to a computer readable medium.

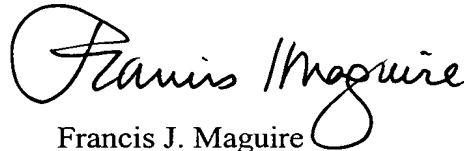
Therefore, amended claim 53 is directed to statutory subject matter.

This amendment is accompanied by a petition for a one-month extension of time along with the \$120.00 fee therefor. If the petition is missing or the period of extension or fee is incorrect, the Commissioner is requested to consider this paper to be a petition for the appropriate extension period and to credit or debit our Deposit Account No. 23-0442 the correct amount.

Applicant also submits herewith an additional claim fee of \$450.00 for added claims 58-66. If the fee is missing or inadequate the Commissioner is authorized to deduct the fee or any shortfall from our Deposit Account No. 23-0442.

The objections and rejections of the Office Action of February 15, 2008, having been obviated by amendment or shown to be inapplicable, withdrawal thereof is requested and passage of claims 33-63 to issue is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink that reads "Francis J. Maguire". The signature is written in a cursive style with a large, looping "F" and "M".

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A P P E N D I X

Annotated Sheet Showing Changes

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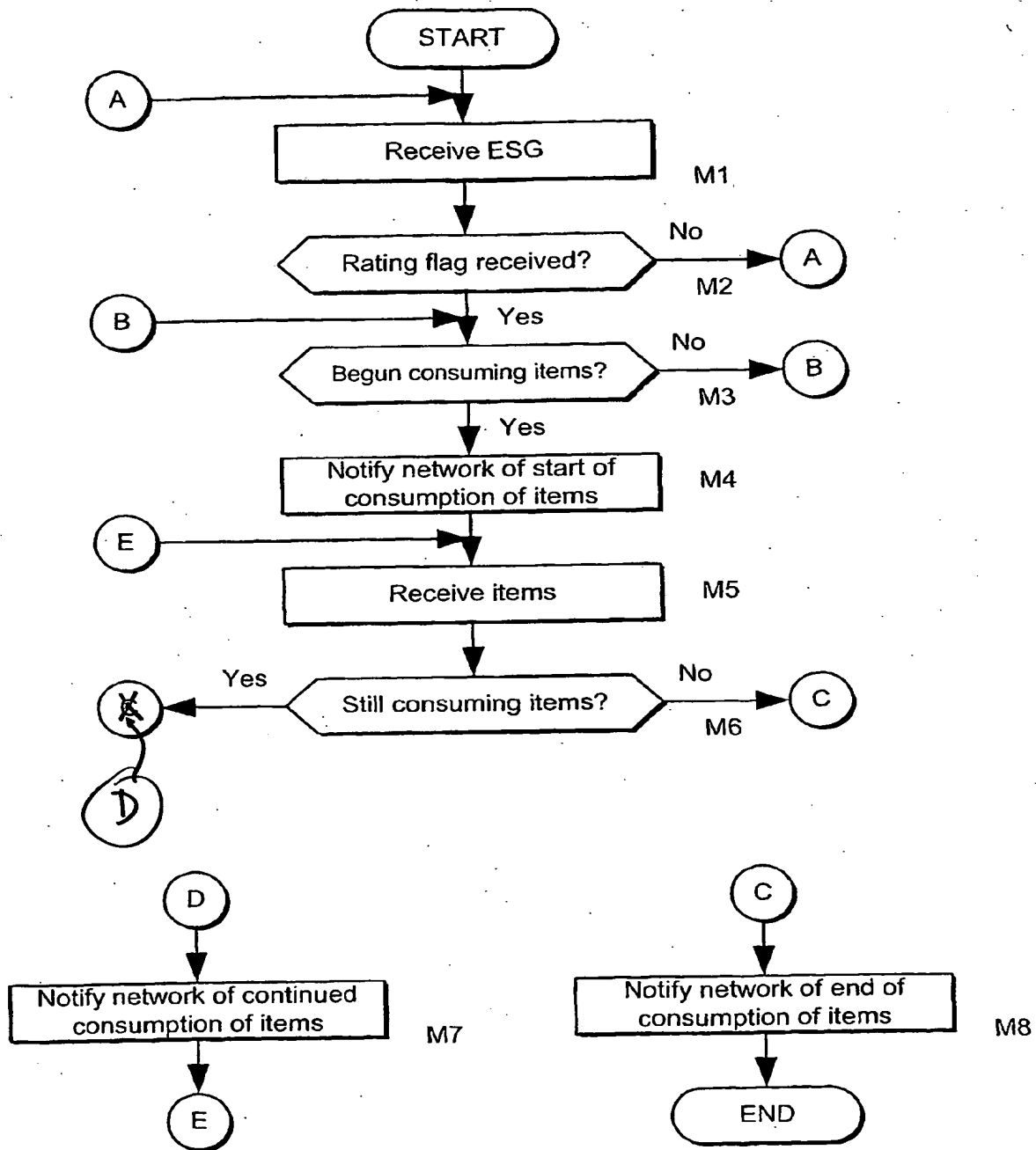


Fig. 13

Annotated Sheet Showing Changes

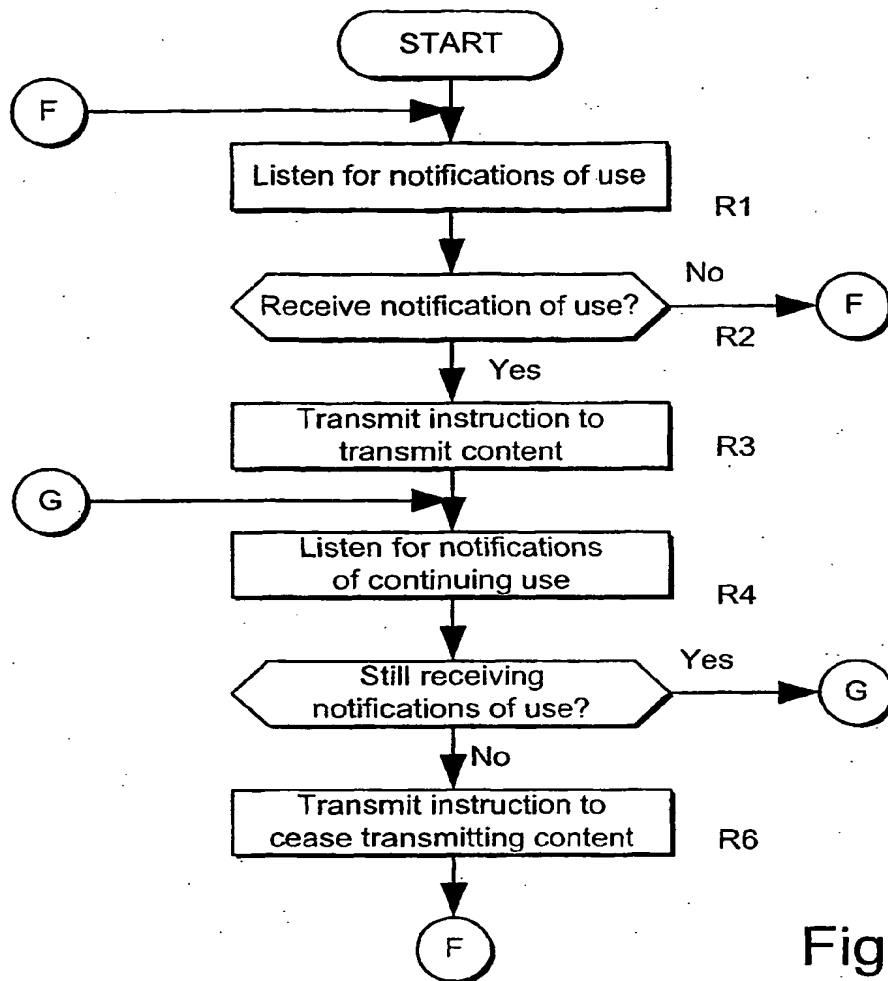
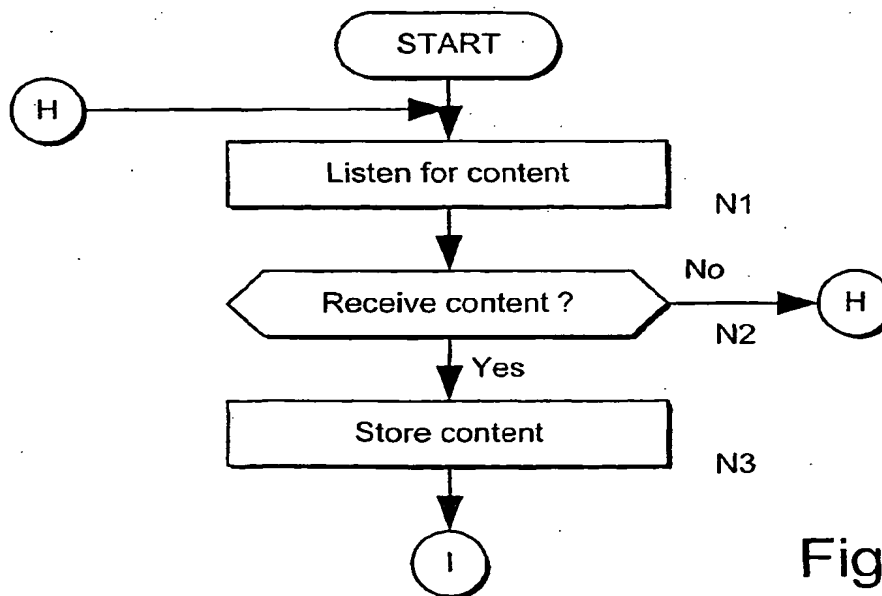


Fig. 15



16a
Fig. 16

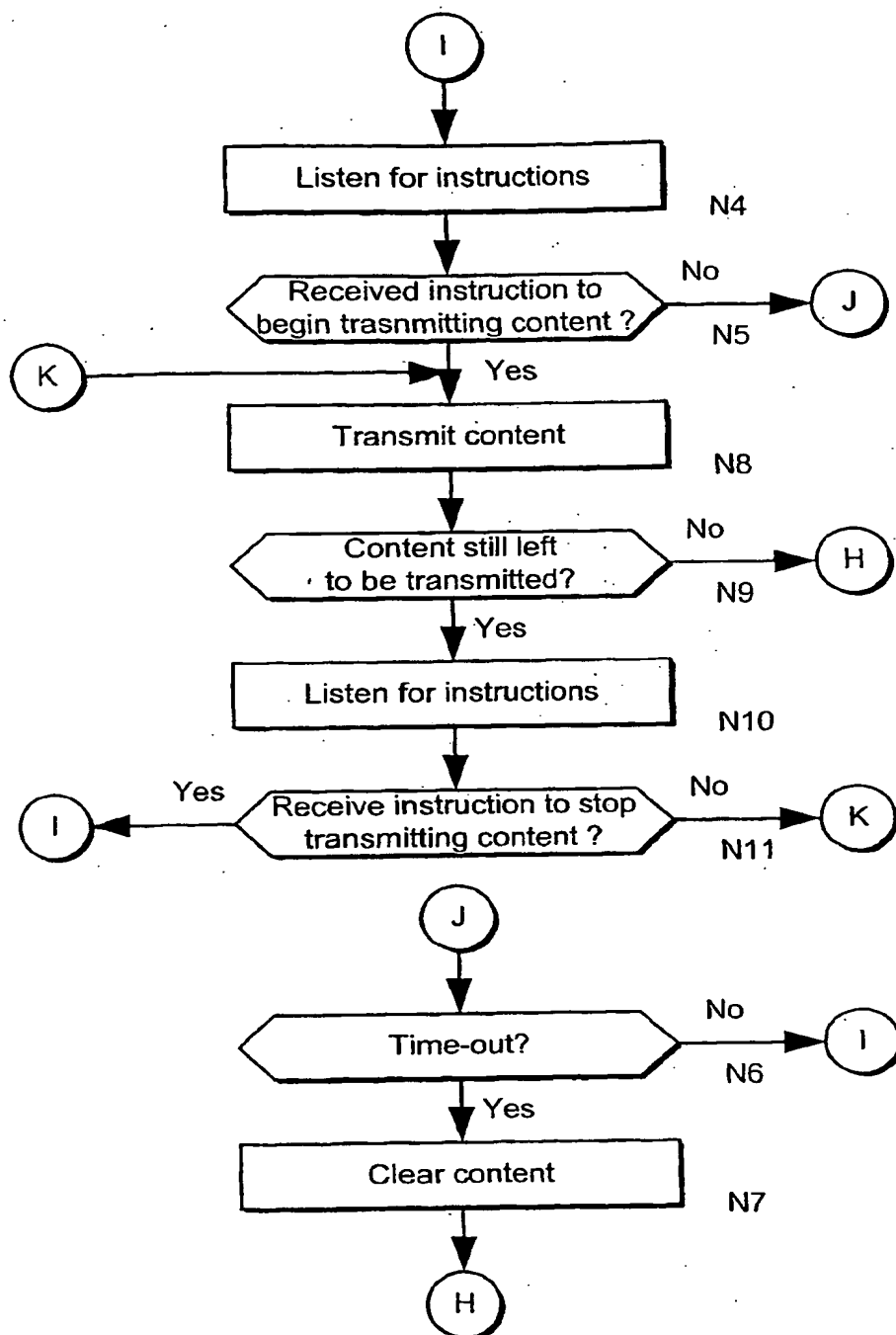


Fig. 16b